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8	BEFORE THE
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the First Amended Accusation Case No.: 2013 - 558
12	In the Matter of the First Amended Accusation Against:
13	DAWN RENEE MOTTIER FIRST AMENDED A C C U S A T I O N
14	a.k.a. Dawn Renee Judt, a.k.a. Dawn Renee Robinson
-15	15 Monte Vista Road
16	Orinda, CA 94563 Registered Nurse License No. 377627
17	Respondent.
18	1 Coop on a coop
19	Complainant alleges:
20	<u>PARTIES</u>
21	1. Complainant Louise R. Bailey, M.Ed., R.N., brings this First Amended Accusation
22	solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
23	Department of Consumer Affairs.
24	2. On or about August 31, 1984, the Board of Registered Nursing issued Registered
25	Nurse License number 377627 to Respondent Dawn Renee Mottier, a.k.a. Dawn Renee Judt,
26	a.k.a. Dawn Renee Robinson. This Registered Nurse license was in full force and effect at all
27	times relevant to the charges brought in this Accusation and will expire on February 28, 2014,
28	unless renewed.

#### **JURISDICTION**

- 3. This First Amended Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
  - 4. Section 118, subdivision (b), provides:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

5. Section 2750 provides:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein."

6. Section 2759 provides:

"The board shall discipline the holder of any license, whose default has been entered or who has been heard by the board and found guilty, by any of the following methods:

- "(a) Suspending judgment.
- "(b) Placing him upon probation.
- "(c) Suspending his right to practice nursing for a period not exceeding one year.
- "(d) Revoking his license.

- "(e) Taking such other action in relation to disciplining him as the board in its discretion may deem proper."
  - 7. Section 2764 provides:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license."

#### **STATUTORY PROVISIONS**

8. Section 490, subdivision (a), provides:

"In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued."

9. Section 2761 provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct . . . .

- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
  - 10. Section 2762 provides, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

### COST RECOVERY

11. Section 125.3, subdivision (a), provides, in pertinent part:

"Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . upon request of the entity bringing the proceedings, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

## FIRST CAUSE FOR DISCIPLINE (Conviction of Crimes)

12. Respondent has subjected her Registered Nurse license to disciplinary action under Business and Professions Code sections 490, subdivision (a), and 2761, subdivision (f) in that she was convicted of crimes substantially related to the qualifications, functions, and duties of a registered nurse, as follows:

A. On or about January 12, 2011, in the Superior Court of California, County of Alameda, Case No. 557729, entitled *People v. Mottier, Dawn Renee*, Respondent was convicted on her plea of no contest for violating Vehicle Code section 23152, subdivision (b) (driving with blood alcohol content of .08%, or higher). Respondent was placed on probation for a period of three years on terms and conditions including fifteen days in county jail, payment of fines and restitution, and a nine month Drinking Driver school.

The factual circumstances surrounding the crime are that on or about November 6,

2009, a California Highway Patrol officer was dispatched to Chabot Street and College Avenue to assist with an accident involving Respondent. Respondent had been driving her vehicle westbound on Chabot Road at a high rate of speed, steered off the road way in the northbound direction onto the sidewalk, and struck a sign pole and a white fire hydrant. Respondent fled the scene of the accident. Based on the evidence at the scene of the accident, the officer could tell that Respondent's vehicle sustained moderate to major damage to the front end. Respondent left her vehicle's bumper at the scene of the accident. The officer noticed that the speed limit of the street is 25 miles per hour and the roadway conditions were wet due to prior rainfall. A blood test revealed that Respondent's blood alcohol content was .30%.

B. On or about February 8, 2000, in the Superior Court of California, Contra Costa County, case number 110790-3, entitled *The People of the State of California vs. Dawn Renee Mottier*, Respondent pled no contest to a misdemeanor violation of Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol). Respondent was placed on three years probation on terms and conditions which included, two days in county jail, payment of fines and restitution, attend and complete the First Offender Driver's Program, and not driving with a measurable amount of alcohol in her blood.

# SECOND CAUSE FOR DISCIPLINE (Unprofessional Conduct – Use of Alcohol)

- 13. The allegations contained in paragraph 12 are realleged and incorporated by reference as if fully set forth.
- 14. Respondent has subjected her Registered Nurse license to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct as defined by Code section 2762, subdivision (b), in that Respondent drove a vehicle while under the influence of an alcoholic beverage, as set forth in paragraphs 12, above.

## THIRD CAUSE FOR DISCIPLINE (Unprofessional Conduct – Criminal Conviction Involving Consumption of Alcohol)

15. The allegations of paragraph 12 are realleged and incorporated by reference as if fully set forth.

1	16. Respondent has subjected her Registered Nurse license to disciplinary action under
2	Code section 2761, subdivision (a), on the grounds of unprofessional conduct as defined by Code
3	section 2762, subdivision (c), in that Respondent was convicted of crimes involving the
4	consumption of alcohol as set forth in paragraph 12, above.
5	<u>PRAYER</u>
6	WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
7	First Amended Accusation, and that following the hearing, the Board of Registered Nursing issue
8	a decision:
9	1. Revoking or suspending Registered Nurse license number 377627, issued to Dawn
10	Renee Mottier, a.k.a. Dawn Renee Judt, a.k.a. Dawn Renee Robinson;
11	2. Ordering Dawn Renee Mottier, a.k.a. Dawn Renee Judt, a.k.a. Dawn Renee
12	Robinson, to pay the Board of Registered Nursing the reasonable costs of the investigation and
13	enforcement of this case, pursuant to Business and Professions Code section 125.3; and
14	3. Taking such other and further action as deemed necessary and proper.
15	DATED: MAY 29, 2013 Louise L. Sailey
16	LOUISE R. BAILEY, M.ED. W.N. Executive Officer
17	Board of Registered Nursing Department of Consumer Affairs
18	State of California  Complainant
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